

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS - EASTERN DIVISION

In re:) Chapter 11
) Case No. 20-11616
HESPERUS PEAK, INC., et al.)
) (Jointly Administered)
Debtors.) Honorable Janet S. Baer

NOTICE OF MOTION

To: See attached list.

PLEASE TAKE NOTICE that on May 5, 2021, at 1:30 p.m., I will appear before the Honorable Janet S. Baer, or any judge sitting in that judge's place, and present the *Debtors' Motion to Extend Time to Confirm Chapter 11 Plans*, a copy of which is attached.

This motion will be presented and heard electronically using Zoom for Government. No personal appearance in court is necessary or permitted. To appear and be heard on the motion, you must do the following:

To appear by video, use this link: <https://www.zoomgov.com/>. Then enter the meeting ID and password.

To appear by telephone, call Zoom for Government at 1-669-254-5252 or 1-646-828-7666. Then enter the meeting ID and password.

Meeting ID and password. The meeting ID for this hearing is 160 731 2971 and the password is 587656. The meeting ID and password can also be found on the judge's page on the court's web site.

If you object to this motion and want it called on the presentment date above, you must file a Notice of Objection no later than two (2) business days before that date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. If no Notice of Objection is timely filed, the court may grant the motion in advance without a hearing.

Date: April 28, 2021

HESPERUS PEAK, INC. &
BLUE'SPA, INC.

By: /s/ Carolina Y. Sales

Carolina Y. Sales (ARDC #6287277)
Paul M. Bauch (ARDC #6196619)
BAUCH & MICHAELS, LLC
53 W. Jackson Blvd., Suite 1115
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CERTIFICATE OF SERVICE

I, Carolina Y. Sales, certify that I served a copy of this notice and the attached motion on each entity shown on the attached list at the address shown and by the method indicated on the list on April 28, 2021 at 12:06 PM.

/s/ Carolina Y. Sales

SERVICE LIST

Via CM/ECF to

Dustin P Branch on behalf of Creditor Starwood Retail Partners LLC
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Francisco Connell on behalf of Creditor Crystal Lake Bank & Trust Company, N.A.
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Patrick S Layng
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Julia Jensen Smolka on behalf of Interested Party Tammy Coakley
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Stephen G Wolfe on behalf of U.S. Trustee Patrick S Layng
steve.g.wolfe@usdoj.gov

VIA U.S. MAIL:

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(p)Bank of America
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El Paso, TX 79998-2238

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CSC, as representative
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C T Corporation System
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Internal Revenue Service
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Illinois Department of Revenue
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IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS - EASTERN DIVISION

In re:) Chapter 11
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HESPERUS PEAK, INC., et al.)
) (Jointly Administered)
Debtors.) Honorable Janet S. Baer

MOTION TO EXTEND TIME TO CONFIRM CHAPTER 11 PLANS

Hesperus Peak, Inc., an Illinois corporation (“Hesperus”) and Bleu’Spa, Inc. (“Blue’Spa”), an Illinois corporation (each a “Debtor” and collectively, the “Debtors”), hereby request an order, pursuant to 11 U.S.C. § 1121(e)(3), extending the time to confirm their Chapter 11 plans (collectively, the “Plans”).

I. JURISDICTION

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157.

2. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (O).

II. BACKGROUND

3. On May 28, 2020, (the “Petition Date”), the Debtors each filed related petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101 et seq., as amended (the “Bankruptcy Code”). On June 25, 2020, the Bankruptcy Court entered an order directing the joint administration of the Debtors’ cases. The Debtors continue to manage and operate their businesses as debtors in possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code. The Debtors have substantially all of the rights, powers and responsibilities of a trustee in bankruptcy pursuant to 11 U.S.C. § 1107(a).

4. No creditors' committee has been appointed in the Debtors' chapter 11 cases, and no trustee or examiner has been appointed. On January 20, 2021, the Debtors filed their Plans and disclosure statements [ECF Nos. 76-79]. On March 2, 2021, the Debtors filed their amended Plans and disclosure statements [ECF Nos. 91-94]. On March 3, 2021, the Debtors filed their second amended Plans and disclosure statements [ECF Nos. 97-100].

III. RELIEF REQUESTED

5. Pursuant to 11 U.S.C. § 1129(e), the Debtors' extended deadline to confirm the Plans is May 10, 2021 [ECF No. 88]. The Debtors are requesting an extension of time until **July 9, 2021** to obtain confirmation of the Plans.

6. Pursuant to 11 U.S.C. § 1121(e)(3), the Court may grant an extension of time only if the following conditions are satisfied:

- (a) the debtor, after providing notice to parties in interest (including the United States Trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable time;
- (b) a new deadline is imposed at the time the extension is granted; and
- (c) the order extending time is signed before the existing deadline has expired.

11 U.S.C. § 1121(e)(3).

7. The Debtors are providing notice of this motion (including the United States Trustee) to all parties in interest. The Debtors have filed their Plans and disclosure statements and have received suggestions for further revisions and additions. The Debtors' senior secured creditor voted to accept the Plans, which currently provide for the sale of the Debtors' property subject to liens (free and clear

of such liens, with such liens to attach to the proceeds of such sale). Although other classes have rejected or are deemed to have rejected the Plans, the Debtors believe that after such further amendments are incorporated into amended Plans, it is more likely than not that the Plans will be confirmed within a reasonable time.

8. Confirmation of the Plans is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtors or any successor to the debtor under the Plans (beyond the liquidation already currently proposed in the Plans). Furthermore, the Plans do not discriminate unfairly and are fair and equitable with respect to each class of claims or interests that is impaired under the Plans.

9. The Debtors are requesting a new deadline of July 9, 2021 to obtain confirmation. The current deadline to confirm the Plans has not yet expired. This is the Debtors' second request to extend the deadline to obtain confirmation. The Debtors believe that cause exists to grant the request herein, which was not made in bad faith.

10. Furthermore, the Debtors believe that they met the 300-day deadline for the filing of the Plans: The original Plans were filed within 237 days after the Petition Date. "[T]he amended plan relates back to the date of the original plan . . . before the expiration of the 300-day deadline for the filing of plans contained in § 1121(e)(2)." *In re Florida Coastal Airlines, Inc.*, 361 B.R. 286, 290 (Bankr. S.D. Fla. 2007). The subsequent amended Plans would also relate back to the date of the original Plans.

WHEREFORE, the Debtors respectfully request the entry of an order extending the deadline to confirm the Plans to July 9, 2021 and granting such other and further relief as is just and proper.

Dated: April 28, 2021

HESPERUS PEAK, INC. &
BLUE'SPA, INC.

By: /s/ Carolina Y. Sales
One of Their Attorneys

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